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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,423	01/17/2002	Hideo Fukumori	16869S-041000US	3439

20350 7590 07/22/2005

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EXAMINER
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ALI, SYED J

ART UNIT	PAPER NUMBER
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2195

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

10/052,423

Applicant(s)

FUKUMORI ET AL.

Examiner

Syed J. Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date January 17, 2002.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-11 are pending in this application.

#### *Priority*

2. Acknowledgment is made of Applicant's claim for foreign priority based on an application filed in Japan on January 19, 2001. It is noted, however, that Applicant has not filed a certified copy of the 2001-011956 application as required by 35 U.S.C. 119(b).

#### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

5. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

#### *Claim Rejections - 35 USC § 101*

6. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. **Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

8. As per claims 1 and 2, the claimed "computer" is non-statutory as it is not tangibly embodied, in that it fails to include any hardware as part of the computer. The computer could be implemented entirely in software. Claims 3-8 are rejected for at least the same reasons as presented for their parent claims, as they fail to present any limitations that resolve the deficiencies of the claims from which they depend.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. **Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Nagaratnam et al. (USPN 6,317,742) (hereinafter Nagaratnam).**

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11. As per claims 1-2, Nagaratnam teaches the invention as claimed, including a computer for executing a Java application program, comprising:

a JAR (Java Archive) file receiving unit for receiving a JAR-file-formatted program (col. 6 lines 40-41, 51-61; col. 8 lines 5-19); and

an application program executing unit for initiating and executing a Java application program stored in said computer before or parallel to all of said JAR-file-formatted programs (col. 10 lines 5-11; col. 11 lines 2-17).

12. As per claims 3-4, Nagaratnam teaches the invention as claimed, including a Java application program executing computer as claimed in claims 1-2, further comprising:

a class management table on which both class files for constituting a received Java file and execution sequences of the class files are recorded (col. 8 line 60 - col. 9 line 1; col. 9 lines 15-19, 21-38).

13. As per claims 5-6, Nagaratnam teaches the invention as claimed, including a Java application program executing computer as claimed in claims 1-2, further comprising:

a class management table on which both class files for constituting a received Java file and average values of execution sequences of the class files are recorded (col. 8 line 60 - col. 9 line 1; col. 9 lines 15-19, 21-38).

14. As per claims 7-8, Nagaratnam teaches the invention as claimed, including a Java application program executing computer as claimed in claims 3-4 wherein:

said computer transmits said execution sequence data, or said averaged value data of the execution sequences to a server, and receives the class files based upon said execution sequence data, or said averaged value data (col. 6 lines 40-41, 51-61; col. 8 lines 5-19).

15. As per claim 9, Nagaratnam teaches the invention as claimed, including a file transmitting method used in a system in which a first computer is connected via a network to a second computer, wherein:

said first computer is comprised of:

a step for requesting said second computer to transmit a file required in a program operated on said first computer (col. 6 lines 40-41, 51-57); and

a step for storing into said first computer, information which defines information indicative of a plurality of said files in correspondence with sequences by which transmissions of said files are requested (col. 6 lines 58-61).

16. As per claim 10, Nagaratnam teaches the invention as claimed, including a file transmitting method as claimed in claim 9 wherein:

said file includes a class file contained in a JAR (Java Archive) file (col. 8 lines 5-19).

17. As per claim 11, Nagaratnam teaches the invention as claimed, including a file transmitting method as claimed in claim 9 wherein:

said information for defining said information indicative of said plural files in correspondence with the sequences by which the transmissions of said files are requested

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includes both information indicative of a class name of a class file, and information representative of a sequence by which said class file is transmitted (col. 8 lines 5-19).

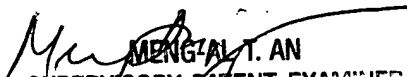
*Conclusion*

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed J. Ali whose telephone number is (571) 272-3769. The examiner can normally be reached on Mon-Fri 8-5:30, 2nd Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai T. An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Syed Ali  
July 19, 2005

  
MENG-AI T. AN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER